UNITED STATES PATENT AND TRADEMARK OFFICE

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 September 2009*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3,5,6,10-12,18 and 20-22* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,5,6,10-12,18 and 20-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

2.   **Claims 1-3, 5, 6, 10-12, 18, and 20-22 are rejected under 35 U.S.C. 103(a) as**

being unpatentable over Fong, US 20050249169 in view of Bushey US

20030217186.

- **In regards to claims 1, 10, 18 and 20**, Fong teaches an apparatus and method

  for controlling a home network (page 1 paragraph [0008]), comprising the

  sequential steps of: determining whether a new control menu exists (page 7

  paragraphs [0067]-[0069], wherein when the user searches to see if a new

  device is on the network, it also searches for the control menu of the new device,

  wherein, this control menu would be a "new control menu" existing on the home

  network along with the new device) on a server remote from the home network

  (page 6 paragraphs [0065] and [0066] and Figure 4) by accessing the remote

  sever (page 6 paragraphs [0065] and [0066] and Figure 4) via the Internet (page

  4 paragraph [0050] and page 7 paragraph [0069], wherein determining whether a

  new device is in the network, determines whether there is a new control menu

  associated with that new device to control it. Once a new device is added to the

  list of network devices, the control menu of that device is within that list as well,

making it a new control menu among the other devices' control menus in the

network device list.) according to a set period (page 4 paragraph [0050], wherein

the network detects when a new device is in the network and therefore its

associated control menu) and comparing a control menu on the remote server

with an existing control menu list (page 4 paragraph [0050] and page 6

paragraph [0063], wherein the new device along with its control menu is added to

the old device list of the network to be an updated list of devices and associated

control menus within each device, therefore comparing the new vs. old devices

and their respective control menus and upgraded version of control menus and

devices as well), wherein the control menu is associated with a piece of

equipment in the home network (page 7 paragraph [0069]); if the new control

menu exists, performing a first download of the new control menu from the

internet (page 2 paragraph [0033]); adding the downloaded new control menu to

a corresponding control menu list (page 6 paragraph [0063] and page 7

paragraph [0069] wherein determining whether a new device is in the network,

determines whether there is a new control menu associated with that new device

to control it. Once a new device is added to the list of network devices, the

control menu of that device is within that list as well, making it a new control

menu among the other devices' control menus in the network device list). While,

Fong teaches the above limitations, he fails to specifically teach performing a

second download of one or more corresponding new control programs or only a

specific control program using the downloaded new control menu, wherein

performing a second download of one or more corresponding control programs

further comprises selecting a new item corresponding to a new control program

from the added new control menu to initiate the second download, and storing

the one or more downloaded new control programs in memory associated with a

piece of equipment that performed the first and second downloads prior to

providing the one or more downloaded new control programs to the

corresponding pieces of equipment that implement the new control program.

In the same field of the invention, Bushey teaches an apparatus and method of

seamless wireless multimedia download path to pear networked appliances

similar to that of Fong. Both Fong and Bushey teach updating software over the

internet to a network of appliances. In addition, Bushey further teaches

performing a second download of one or more corresponding new control

programs or only a specific control program (page 4 paragraph [0027]) using the

downloaded new control menu (page 4 paragraphs [0026-0028], wherein a

second download can be a download of updated programs and information for

each specific device on the network), wherein performing a second download of

one or more corresponding control programs further comprises selecting a new

item corresponding to a new control program from the added new control menu

to initiate the second download (page 4 paragraphs [0026-0028], wherein a

second download can be a download of updated programs and new items such

as updated software for each specific device on the network). Bushey further

teaches storing the one or more downloaded new control programs in memory

<u>(page 4 paragraph [0029], wherein the memory stores software loaded on the</u>

<u>system) associated with a piece of equipment (page 4 paragraph [0028]) that</u>

<u>performed the first and second downloads prior to providing the one or more</u>

<u>downloaded new control programs to the corresponding pieces of equipment that</u>

<u>implement the new control program (page 4 paragraphs [0026-0029], wherein all</u>

<u>the devices with updated information can communicate with each other and have</u>

<u>automatic reconfiguration and updated shared data and programs).</u> It would

have been obvious to one of ordinary skill in the art, having the teachings of Fong

and Bushey before him at the time the invention was made, to modify the

teachings taught by Fong to include the teachings of Bushey in order to obtain a

second download of new control programs and storing them on another piece of

equipment other than that of the corresponding equipment. One would have

been motivated to make such a combination in order for the ability to transfer

updated information to a personal computer and other peripheral devices over a

network automatically and error free to be obtained, as taught by Bushey (page 2

paragraph [0012]).

- **In regards to claim 2**, Fong teaches to above limitations (see claims 1 and 18).

  Fong further teaches wherein determining whether a new control menu exists

  further comprises determining if the new control menu is not contained in a

  current corresponding control menu (page 4 paragraph [0050] and page 7

  paragraph [0069], wherein determining whether a new device is in the network,

determines that a new control menu exists associated with the new device that has not been contained in the current device list (page 4 paragraph [0050]).

- **In regards to claim 3**, Fong teaches to above limitations (see claims 1 and 18). Fong further teaches wherein determining whether a new control menu exists further comprises determining if the new control menu is an upgraded version of the current control menu (page 4 paragraph [0050] and page 7 paragraph [0069], wherein determining whether a new device is in the network, determines that a new control menu exists associated with the new device that has not been contained in the current device list (page 4 paragraph [0050] and is therefore checking for upgrades)., the new control menu is considered as a new menu even when the new control menu is contained in the old control menu list (page 4 paragraph [0050] and page 6 paragraph [0063], wherein the new device along with its control menu is added to the old device list of the network to be an updated list of devices and associated control menus within each device).

- **In regards to claim 5**, Fong teaches to above limitations (see claims 1 and 18). While, Fong teaches the above limitations, he fails to specifically teach wherein performing a second download of one or more corresponding control programs further comprises selecting an auto mode to automatically initiate the second download of one or more new control programs associated with the added new control menu.

  In the same field of the invention, Bushey teaches an apparatus and method of seamless wireless multimedia download path to pear networked appliances

similar to that of Fong. Both Fong and Bushey teach updating software over the

internet to a network of appliances. In addition, Bushey further teaches wherein

performing a second download of one or more corresponding control programs

further comprises selecting an auto mode to automatically initiate the second

download of one or more new control programs associated with the added new

control menu (page 4 paragraphs [0026-0028], wherein a second download can

be a download of updated programs and new items such as updated software for

each specific device on the network automatically set by time periods (page 4

paragraph [0028])). It would have been obvious to one of ordinary skill in the art,

having the teachings of Fong and Bushey before him at the time the invention

was made, to modify the teachings taught by Fong to include the teachings of

Bushey in order to obtain a second download of new control programs

automatically. One would have been motivated to make such a combination in

order for the ability to transfer updated information to a personal computer and

other peripheral devices over a network automatically and error free to be

obtained, as taught by Bushey (page 2 paragraph [0012]).

- **In regards to claim 6**, Fong teaches to above limitations (see claims 1 and 18).

  While, Fong teaches the above limitations, he fails to specifically teach further

  comprising storing the one or more downloaded control program after the second

  download.

  In the same field of the invention, Bushey teaches an apparatus and method of

  seamless wireless multimedia download path to pear networked appliances

similar to that of Fong. Both Fong and Bushey teach updating software over the

internet to a network of appliances. In addition, Bushey further teaches further

comprising storing the one or more downloaded control program after the second

download (page 4 paragraph [0029], wherein the memory stores software loaded

on the system). It would have been obvious to one of ordinary skill in the art,

having the teachings of Fong and Bushey before him at the time the invention

was made, to modify the teachings taught by Fong to include the teachings of

Bushey in order to obtain a second download of new control programs and

storing them on the system. One would have been motivated to make such a

combination in order for the ability to transfer updated information to a personal

computer and other peripheral devices over a network automatically and error

free to be obtained, as taught by Bushey (page 2 paragraph [0012]).

- **In regards to claims 11 and 21**, Fong teaches to above limitations (see claims 1

  and 18). While, Fong teaches the above limitations, he fails to specifically teach

  wherein the method is performed by each piece of equipment in the home

  network.

  In the same field of the invention, Bushey teaches an apparatus and method of

  seamless wireless multimedia download path to pear networked appliances

  similar to that of Fong. Both Fong and Bushey teach updating software over the

  internet to a network of appliances. In addition, Bushey further teaches wherein

  the method is performed by each piece of equipment in the home network (page

  4 paragraph [0028], wherein all the devices can communicate with each other

and have automatic reconfiguration and updated shared data). It would have

been obvious to one of ordinary skill in the art, having the teachings of Fong and

Bushey before him at the time the invention was made, to modify the teachings

taught by Fong to include the teachings of Bushey in order to obtain each piece

of equipment on the network to include the above method (see claims 1, 10, 18

and 20). One would have been motivated to make such a combination in order

for the ability to transfer updated information to a personal computer and other

peripheral devices over a shared network automatically and error free to be

obtained, as taught by Bushey (page 2 paragraph [0012]).

- **In regards to claims 12 and 22**, Fong teaches to above limitations (see claims 1

  and 18). While, Fong teaches the above limitations, he fails to specifically teach

  further comprising allowing each piece of equipment in the home network to

  access each control menu list associated with a corresponding piece of

  equipment in the home network.

  In the same field of the invention, Bushey teaches an apparatus and method of

  seamless wireless multimedia download path to pear networked appliances

  similar to that of Fong. Both Fong and Bushey teach updating software over the

  internet to a network of appliances. In addition, Bushey further teaches further

  comprising allowing each piece of equipment in the home network to access

  each control menu list associated with a corresponding piece of equipment in the

  home network (page 4 paragraph [0028], wherein all the devices can

  communicate with each other and have automatic reconfiguration and updated

shared data). It would have been obvious to one of ordinary skill in the art, having

the teachings of Fong and Bushey before him at the time the invention was

made, to modify the teachings taught by Fong to include the teachings of Bushey

in order to obtain each piece of equipment on the network to include the above

method (see claims 1, 10, 18 and 20). One would have been motivated to make

such a combination in order for the ability to transfer updated information to a

personal computer and other peripheral devices over a shared network

automatically and error free to be obtained, as taught by Bushey (page 2

paragraph [0012]).

Response to Arguments

Applicant's arguments filed 9/21/09 have been fully considered but they

are not persuasive.

Applicant argues that Fong does not teach "determining whether a new control

menu exists on a server remote from the home network by accessing the remote server

via the Internet."

The Examiner disagrees. Fong does teach "determining whether a new control

menu exists (page 7 paragraphs [0067]-[0069], wherein when the user searches to see

if a new device is on the network, it also searches for the control menu of the new

device, wherein, this control menu would be a "new control menu," because it is a "new

device" existing on the home network) on a server remote from the home network (page

6 paragraphs [0065] and [0066] and Figure 4, wherein Fong specifically says that

"communicating with remote web severs via the Internet") by accessing the remote

server via (page 6 paragraphs [0065] and [0066] and Figure 4) the Internet (page 2

paragraphs [0034]-[0036]). Therefore Fong does teach the limitations of claims 1,10, 18

and 20 and their respective dependents.

Applicant argues that Fong does not teach "if the new control menu exists,

performing a first download of the new control menu from the internet."

The Examiner disagrees. Fong DOES teach "if the new control menu exists,

performing a first download of the new control menu from the internet (page 2

paragraph [0033]); adding the downloaded new control menu to a corresponding control

menu list (page 6 paragraph [0063] and page 7 paragraph [0069] wherein determining

whether a new device is in the network, determines whether there is a new control

menu associated with that new device to control it. Once a new device is added to the

list of network devices, the control menu of that device is within that list as well, making

it a new control menu among the other devices' control menus in the network device

list)." Therefore, Fong meets the claimed limitations of claims 1, 10, 18 and 20 and their

respective dependents.

Applicant argues that Bushey does not teach "downloading a new control

program stored on a piece of equipment other than the corresponding piece of

equipment."

The Examiner disagrees. Bushey does teach "downloading a new control

program stored on a piece of equipment other than the corresponding piece of

equipment (page 4 paragraph [0027], wherein the download is **stored** on the remote

server, and then transferred to the device which is piece of equipment corresponding to

the downloaded new control program)." Therefore the Bushey in combination with Fong,

teach the limitations of claims 1,10, 18 and 20 and their respective dependents.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Shashi K. Becker whose telephone number is 571-272-

8919. The examiner can normally be reached on Mon-Fri 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Weilun Lo can be reached on 571-272-4847. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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